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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,989	07/24/2001	Charles D. Cranor	2001-0227	5226

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EXAMINER

JACOBS, LASHONDA T

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/911,989

Applicant(s)

CRANOR ET AL.

Examiner

LaShonda T. Jacobs

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

This is a Final Rejection Office Action in response to Applicants' Amendment filed on March 21, 2005. Claims 1-24 have been amended. Claims 1-24 are presented for further examination.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims **1-24** are rejected under 35 U.S.C. 102(b) as being anticipated by McCreery et al (hereinafter, "McCreery", U.S. Pat. No. 5,787,253).

As per claims 1 and 13, McCreery discloses a method of monitoring traffic in a network comprising the steps of:

receiving at least one data packet at a network interface (abstract and col. 6, lines 48-53), said network interface comprising:

- a first module handling communications between the network and a host (abstract and col. 2, lines 11-22), and
- at least one programmable processing modules in communication with said first module (abstract and col. 2, lines 11-22); and

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- processing information in the at least one module data packet using the at least one programmable processing module, to generate network information (col. 4, lines 63-67 and col. 5, lines 1-10).

As per claims 2 and 14, McCreery discloses:

- wherein the network information can be relayed from the network interface to the host (col. 4, lines 63-67 and col. 5, lines 1-10).

As per claims 3 and 15, McCreery discloses:

- wherein the at least one programmable processing module is generated from a processing query expressed in a high level language (col. 7, lines 16-26).

As per claims 4 and 16, McCreery discloses:

- wherein the processing query accesses functions defined in the first module (col. 12, lines 50-59).

As per claims 5 and 17, McCreery discloses:

- wherein the network information is condensed statistics of network performance (col. 4, lines 63-67 and col. 5, lines 1-10).

As per claims 6 and 18, McCreery discloses:

- wherein the at least one programmable processing module performs filtering on the information in the at least one data packet (col. 8, lines 28-36 and col. 10, lines 38-45).

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As per claims 7 and 19, McCreery discloses:

- wherein the at least one programmable processing module performs a transformation on the information in the at least one data packet (col. 8, lines 28-36 and col. 10, lines 38-45).

As per claims 8 and 20, McCreery discloses:

- wherein the at least one programmable processing module performs aggregation on the information in the at least one data packet (col. 8, lines 28-36 and col. 10, lines 38-45).

As per claims 9 and 21, McCreery discloses:

- wherein the first module can pass parameters to the at least one processing module, thereby changing the processing performed by the at least one processing module (col. 7, lines 33-50).

As per claims 10 and 22, McCreery discloses:

- wherein the first module can instantiate new processing modules dynamically (col. 12, lines 60-67 and col. 13, lines 1-8).

As per claims 11 and 23, discloses:

- wherein the network is a Gigabit Ethernet network (col. 6, lines 37-41).

As per claims 12 and 24, McCreery discloses:

- wherein the at least one data packet is an Internet Protocol datagram (col. 8, lines 23-30).

Response to Arguments

3. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 6,389,468 to Muller et al

U.S. Pat. No. 6,356,951 to Gentry, Jr.

U.S. Pat. No. 6,708,292 to Mangasarian

U.S. Pat. No. 6,457,051 to Riddle et al

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShonda T. Jacobs whose telephone number is 571-272-4004. The examiner can normally be reached on 8:30 A.M.-5:00 P.M..


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LaShonda T Jacobs
Examiner
Art Unit 2157

ltj
June 9, 2005


ARIO ETIENNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100